IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

Crl.MC.No. 2833 of 2007()

AGAINST THE ORDER IN LP 18/2006 IN
CC.522/2007 of JUDL.MAGISTRATE OF FIRST CLASS-I, KOLLAM

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PETITIONER: ACCUSED 1 AND 2

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1. ANILKUMAR, S/O.KUNJIRAMAN,
'CHITHIRA', PERUNGALAM MURI,
MUNDROTHURUTH VILLAGE, KOLLAM.

2. SUDHAKARAN, S/O.RAGHAVAN,
PUTHUVAYALIL VEEDU, KIDAPRAM MURI,
MUNDROTHURUTH VILLAGE, KOLLAM.

BY ADV. SRI.K.V.ANIL KUMAR

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2833 of 2007

Dated this the 11th day of September 2007

O R D E R

The petitioners face indictment in a prosecution inter alia under Section 379 I.P.C. Annexure I order was passed in favour of the petitioner. They surrendered before the learned Magistrate. They were enlarged on bail. The long pending case was then posted to 24/9/2007. After the petitioners surrendered and were enlarged on bail, the case was posted to 21/6/2007. The petitioner were allegedly under the bona fide impression that the case was posted to 24/9/2007 after they were released on bail. They did not know about the advancement of the case. The petitioners did not therefore appear before the learned Magistrate on 21/6/2007. A warrant of arrest was consequently issued by the learned Magistrate against the petitioners. The petitioners even now find fresh warrants of arrest issued by the learned Magistrate chasing them. The petitioners are willing to surrender before the learned Magistrate and seek regular bail. But they apprehend that their application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. They, therefore, pray that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioners on bail when they appear and apply for bail.

2. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which they could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioners on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary.

3. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioners surrender before the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

4. In the peculiar circumstances of this case, I direct that the non-bailable warrant issued against the petitioners shall not be executed till 20/09/2007. The petitioners must appear before the learned Magistrate and seek regular bail on or before that date.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007